

LOCAL AGENCY FORMATION COMMISSION COUNTY OF SAN BERNARDINO

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DATE: APRIL 5, 2006

FROM: SAMUEL MARTINEZ, LAFCO Analyst

TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: Agenda Item #5: LAFCO SC#270 – Irrevocable Agreement to Annex No. 05-00006, City of Fontana for Sewer Service (APN 0234-011-16)

INITIATED BY:

City of Fontana, on behalf of property owner

RECOMMENDATION:

1. For environmental review, take the following actions as a responsible agency:
 - Certify that the Commission has reviewed and considered the environmental assessment and the Mitigated Negative Declaration prepared by the County of San Bernardino for the Conditional Use Permit to establish an industrial building to be used as a warehouse and distribution facility not to exceed 593,000 sq. ft. including an 18,000 sq. ft. office space on 26 acres, and found them to be adequate for Commission use;
 - Determine that the Commission does not intend to adopt alternatives or mitigation measures for this project; that all mitigation measures are the responsibility of the County of San Bernardino and/or others, not the Commission; and,
 - Note that this proposal is exempt from Department of Fish and Game fees because the filing fee was the responsibility of the County, as CEQA lead agency, and direct the Clerk to file a Notice of Determination within five (5) days of this action.

2. Approve SC#270 authorizing the City of Fontana to extend sewer service outside its boundaries to Assessor Parcel Number (APN) 0234-011-16.
3. Adopt LAFCO Resolution #2914 setting forth the Commission's findings, determinations and approval of the agreement for service outside the City of Fontana's boundaries.

BACKGROUND:

The City of Fontana has submitted a request for approval of an irrevocable agreement to annex that outlines the terms by which it will extend sewer service outside its boundaries. The agreement relates to a single parcel, APN 0234-011-16, generally located at the southwest corner of Calabash and San Bernardino Avenues (9774 Calabash Avenue), within the City's western sphere of influence. Attachment #1 provides a location and vicinity map of the site along with a map outlining the location of the infrastructure to be extended.

A Conditional Use Permit has been processed through the County's Land Use Services Department to establish an industrial building to be used as a warehouse and distribution facility not to exceed 593,000 sq. ft. including an 18,000 sq. ft. office space on 26 acres. The Conditions of Approval placed upon this project include the requirement to connect to the City of Fontana's sewer facilities prior to issuance of building permits (see Conditions #17, 54 & 71). Water service will be provided by the Fontana Water Company. A copy of the Conditions of Approval is included as Attachment #3 to this report.

The City of Fontana's application (included as Attachment #2) identifies that it recently revised its annexation policy in March 2005, through adoption of Resolution No. 2005-03, indicating its requirement that all new developments annex to the City in order to receive service. However, the City has submitted the out-of-agency service contract application and is requesting that it be approved for the following reasons: (a) the applicant requested City sewer service and worked with City staff regarding its sewer connection prior to the annexation policy being revised; and (b) since the parcel is not contiguous to the City's boundaries, an initial attempt to contact adjacent landowners concerning annexation to the City gained little support. Therefore, annexation is not possible.

As a result, the City, on behalf of the property owner, has requested that the Commission review and approve the extension of service pursuant to the provisions of Government Code Section 56133. Authorization of this agreement is required before the City can take the final actions to implement the terms of the agreement.

The City's application indicates that the parcel will be served from an existing 8-inch sewer main currently located at the southern boundary of the parcel in Calabash Avenue. The sewer main is to be extended along the entire frontage of the parcel in Calabash Avenue to its intersection with San Bernardino Avenue.

Pursuant to the Commission's application requirements for service contracts, information has been provided regarding all financial obligations for the extension of service outside the agency's boundaries. The City of Fontana has submitted an estimated cost of \$40,168.08 in sewer fees for the extension of service to the parcel. The City's sewer fees are based on the number of equivalent dwelling units (EDU's); however, since the project is for a proposed industrial development, the computation for EDU's is based on the number of plumbing fixtures. Following is a table with a detailed calculation of the fees:

Equivalent Dwelling Units (<i>Number of plumbing fixtures</i>)	109 x 0.0741 (City Rate)=	8.07 EDUs
Facilities Expansion Fee (pass thru fee to IEUA)	\$4,000 x 8.07 EDU's	\$32,280.00
Sewer Connection Charge	\$770 x 8.07 EDU's	\$6,213.90
Sewer Deposit	\$34.06 x 8.07 EDU's x 4 mos. (mo. sewer rate) x 1.5 (rate outside City boundary)	\$1,649.18
Sewer Permit	1 permit x \$25	\$25.00
TOTAL		\$40,168.08

In addition, the applicant will be responsible for the entire cost of the construction and installation of the sewer main along the parcel's frontage in Calabash Avenue including the lateral connection from the sewer main to the parcel. Also, as reflected in the sewer deposit, future users of the sewer service will be charged 1.5 times the in-City monthly rate.

The Commission's Environmental Consultant, Tom Dodson and Associates, reviewed the County's Conditions of Approval and the environmental assessment that was prepared for the proposed development. Upon review of the documents, Mr. Dodson requested additional information from the applicant regarding the air quality assessment that was identified in the Initial Study and the Mitigated Negative Declaration. In particular, Mr. Dodson requested a report outlining how the project's air quality mitigation measures were to be undertaken. The project's representative, Hogle-Ireland Inc., submitted a supplemental report (included as part of Attachment #3) that demonstrates how the air emissions associated with the project construction would be mitigated to less than significant levels. Mr. Dodson has indicated that, with the additional information, the County's Initial Study and Mitigated Negative Declaration are adequate for the Commission's use as a CEQA responsible agency.

Staff has reviewed this request for the provision of sewer service by the City of Fontana outside its corporate boundaries against the criteria established by Commission policy and Government Code Section 56133. The parcel to be served is within the sphere of influence assigned the City of Fontana and is anticipated to become a part of the City sometime in the future. The development of the warehouse and distribution facility requires that it receive sewer service, which is only available from the City of Fontana. Staff supports the City's request for authorization to provide sewer service to the proposed project since its facilities are adjacent to the anticipated development, and there is no other existing entity available to provide this service within the area.

FINDINGS:

1. The project area, identified as APN 0234-011-16, is within the sphere of influence assigned the City of Fontana and is anticipated to become a part of that City sometime in the future. The parcel will receive its water service from the Fontana Water Company. The application requests authorization to receive City of Fontana sewer service.
2. The Irrevocable Agreement to Annex being considered is for the provision of sewer service to APN 0234-011-16, located at the southwest corner of Calabash and San Bernardino Avenues (9774 Calabash Avenue). This contract will remain in force in perpetuity for the proposed development or until such time as the area is annexed. Approval of this application will allow the property owner and the City of Fontana to proceed in finalizing the contract for the extension of this service.
3. The service contract to be considered is for the ultimate provision of sewer service by the City of Fontana. This contract will fulfill the requirements of the County's Conditional Use Permit approval dated September 30, 2005, for the development of an industrial building to be used as a warehouse and distribution facility not to exceed 593,000 sq. ft. including an 18,000 sq. ft. office space on 26 acres. The approval of the contract will allow the City and property owner to finalize the agreement so that building plans for the site can be finalized with the County.
4. The fees charged this project by the City of Fontana for sewer service are identified as totaling \$40,168.08 (for a breakdown of fees, see table on page 3). Payment of these fees is required prior to connection to the City's sewer facilities. In addition, the property owner shall bear all costs to complete improvements needed to extend the sewer service to the proposed development.

5. In September 2005, acting as the CEQA lead agency, the County prepared an environmental assessment for a Conditional Use Permit to establish an industrial building to be used as a warehouse and distribution facility not to exceed 593,000 sq. ft. including an 18,000 sq. ft. office space on 26 acres. The County's assessment indicates that the project would not have a significant effect on the environment through its development under the Conditions of Approval that has been approved for the proposed project.

LAFCO's Environmental Consultant, Tom Dodson and Associates reviewed the County's Initial Study and the Mitigated Negative Declaration issued for the proposed project. Mr. Dodson's analysis has indicated that the County's Initial Study and Mitigated Negative Declaration are adequate for the Commission's use as a CEQA responsible agency. The Commission will not be adopting alternatives or mitigation measures for this development; all mitigation measures are the responsibility of the County of San Bernardino and/or others, not the Commission. Attachment #4 provides a copy of Mr. Dodson's response and recommendation regarding the Commission's review and necessary actions to be taken.

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Attachments:

1. Vicinity Map and Map of the Contract Area
2. City of Fontana's Application and Contract
3. County's Conditions of Approval for the Conditional Use Permit to Establish an Industrial Building to be Used as a Warehouse and Distribution Facility Not to Exceed 593,000 sq. ft. Including an 18,000 sq. ft. Office Space on 26 Acres
4. Tom Dodson and Associates Response Including the County's Environmental Documents for the Conditional Use Permit
5. Draft Resolution #2914